

UNITED STATES DISTRICT COURT  
Northern District of California

JUNIPER NETWORKS, INC.,

Plaintiffs,

v.

ALTITUDE CAPITAL PARTNERS, L.P. and  
SECURITY RESEARCH HOLDINGS, LLC,

Defendants.

No. C 09-03449 JSW (MEJ)

**ORDER RE DISCOVERY DISPUTE  
(DKT. ##148, 154)**

The Court is in receipt of the parties' joint letter filed on November 11, 2010. (Dkt. ##148, 154.) The dispute concerns Plaintiff Juniper Network, Inc.'s contention that Defendants Altitude Capital Partners, L.P. and Security Research Holdings, LLC ("Defendants") have withheld or redacted certain documents based on improper claims of privilege. Having reviewed the parties' arguments, the Court notes that Juniper has objected to 2,550 of Defendants' 2,600 privilege log entries. For several of these entries, Defendants invoke privileges on behalf of third parties, which, upon preliminary review, appear improper.<sup>1</sup> However, given that Defendants' motion to dismiss is scheduled to be heard before Judge White on December 10, 2010, and any *in camera* review of the nearly 2,600 documents would take a considerable amount of the Court's time, the undersigned finds that it is impracticable to resolve this dispute within the available time, let alone the time required for production, if necessary, and review of any withheld documents prior to the hearing. Accordingly, the Court DENIES Juniper's request WITHOUT PREJUDICE. If Juniper is compelled to resolve this dispute prior to the motion to dismiss hearing, it shall file a continuance

<sup>1</sup>Defendants argue that they have a common legal interest with the third party, but the caselaw they cite does not appear to support their argument, and Juniper states that the third party does not intend to seek a protective order and has not otherwise intervened to invoke a privilege.

1 request before Judge White. If Judge White grants Juniper's request, the parties are ORDERED to  
2 meet and confer pursuant to the undersigned's for the purpose of narrowing their dispute. If  
3 Defendants contend that third party communications are privileged, they must make a stronger  
4 showing than the present letter, including whether the third party seeks to invoke the privilege.

5 **IT IS SO ORDERED.**

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7 Dated: September 17, 2010

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10 MARIA-ELENA JAMES  
11 Chief United States Magistrate Judge  
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